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Development, LLC, an Oregon Company,
Stewardship Realty, an Oregon Company,
Vladimir Ozeruga, an Individual

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

(PORTLAND)

PALAZZO VINTAGE HOMES, LLC,

Plaintiff,

v.

URBAN HOUSING DEVELOPMENT,
LLC, an Oregon company, STEWARDSHIP
REALTY, an Oregon company, DEZ
DRAFTING & DESIGN LLC, an Oregon
company; VLADIMIR OZERUGA, an
individual, E & O VENTURES, LLC, an
Oregon company; and SLAVIK
DEZHNYUK, an individual,

Defendants.

Civil No.: 09-CV-952-JE

**NOTICE OF INTENT TO FILE
OBJECTION TO NOTICE OF
RATIFICATION BY PALAZZO
CUSTOM HOMES, LLC PURSUANT
TO RULE 17(a)**

Defendants Urban Housing Development, LLC, Stewardship Realty, Vladimir

Ozeruga and E & O Ventures, LLC (“Objecting Defendants”) hereby submit their notice of

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intent to file objection to Ratification by Palazzo Custom Homes, LLC Pursuant to Rule 17(a).

Plaintiff, Palazzo Vintage Homes, LLC, filed its initial Complaint (Doc. No. 1) on August 14, 2009, its First Amended Complaint (Doc. No. 6) on September 8, 2009, and its Second Amended Complaint (Doc. No. 28) on January 8, 2010. Subsequently, Plaintiff, Palazzo Vintage Homes, LLC, filed a Motion for Entry of Default Against Dez Drafting & Design, LLC (Doc. No. 36) on February 1, 2010.

Then, on February 10, 2010, a “Notice of Ratification by Palazzo Custom Homes, LLC Pursuant to Rule 17(a)” bearing a January 29, 2010 signature by Randy Palazzo as Trustee of the Randall Palazzo Revocable Living Trust was filed. The Notice of Ratification fails to address whether the following allegation in Paragraph 15 of the Second Amended Complaint is wrong: Plaintiff, Palazzo Vintage Homes, LLC, “is and at all relevant times has been, the sole owner of all exclusive rights under United States copyright law with respect to certain of its architectural works (collectively the ‘Copyrighted Works’).” In fact, the “Notice of Ratification” fails to provide any explanation whatsoever as to whether Palazzo Custom Homes, LLC has any interest in the instant litigation, and fails to clarify whether Plaintiff, Palazzo Vintage Homes, LLC is the proper plaintiff in this case or whether Palazzo Custom Homes, LLC is in fact the proper plaintiff.

Furthermore, the “Notice of Ratification” fails to set forth any factual basis to support the Rule 17 (a) ratification. “The requirement of Rule 17 that an action be prosecuted in the name of a real party in interest is based on the principle that the pleadings ‘should be made to reveal and assert the actual interest of the plaintiff, and to indicate the interests of any others

in the claim.’’ *Arch Chemicals, Inc. v. Radiator Specialty Co.*, 653 F.Supp.2d 1099, 1107 (D. Or. 2009) (internal citations omitted). “[A]mple authority from this jurisdiction limits the applicability of ratification under Rule 17(a) to those cases involving an understandable mistake’’ and not a strategic decision. *Id.*

Here, neither Plaintiff nor Palazzo Custom Homes, LLC provide any factual explanation for the Notice of Ratification. Furthermore, the Objecting Defendants are unable to ascertain whether any evidence in fact exists to support the Notice of Ratification because Plaintiff has failed, despite repeated request, to provide core discovery concerning the authorship and ownership of the disputed work. Accordingly, the Objecting Defendants are presently unable to ascertain whether the Notice of Ratification is proper.

Should discovery disclose that there no factual basis to support the Notice of Ratification, the Objecting Defendants will timely file a motion to strike.

DATED: February 22, 2010

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By /s/ Laura Caldera Taylor

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